S.B. CRIMINAL MISC. PETITION NO.785/2007
(Jai Singh & Ors. Shreni Dan & Ors.)

Date of order : 18.12.2007

HON'BLE MR. JUSTICE GOPAL KRISHAN VYAS

Mr. D.K. Parihar, for the petitioner.
Mr. S.N. Tiwari, PP

Heard learned counsel for the petitioner.

By way of filing the present misc. petition, the petitioner is challenging the order dated 12.10.2006 passed by Additional District & Sessions Judge, No.3, Jodhpur in Criminal Revision No.110/2005 so also the order dated 30.5.2005 passed by Sub-divisional Magistrate, Shergarh District Jodhpur in Criminal Case No.4/2005.

The contention of the petitioner is that the learned Executive Magistrate vide order dated 30.5.2005 without hearing both the parties passed ex-parte order and disputed plot was attached and SHO, Balesar was appointed as receiver on the basis of the affidavit given by SHO, Balesar.

In this case, notices have already been issued by Executive Magistrate to both the parties and opportunities have been granted to raise their grounds

before the said Court. The learned revisional Court has refused to interfere with the order only on the ground that notices were issued and opportunity is left with the petitioner so also the respondents to raise all the grounds before the authorities concerned.

In the facts and circumstances of the case, I see no reason to interfere with the order passed by revisional Court. However, the parties are directed to appear before the Sub-Divisional Magistrate, Shergarh and raise all the grounds before him and it is expected from the Sub-Divisional Magistrate that he will consider their grounds and will pass order in accordance with the law within a period of three months.

With these observations, the misc. petition is dismissed.

(GOPAL KRISHAN VYAS), J.

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